

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7919 of 1997
SPECIAL CIVIL APPLICATION NOS. 7921, 7923,
7924, 7926,, 7928, 7929, 7930, 7931 AND
7935 OF 1997.

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHIVABHAI PANCHABHAI

Versus

STATE OF GUJARAT

Appearance:

MR SANDEEP N BHATT for Petitioner

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 28/01/98

ORAL JUDGEMENT (PER C.K.THAKKER J.)

Rule. Mr.P.G.Desai, Government Pleader appears and waives service of Rule on behalf of respondents. In the facts and circumstances, all the matters have been taken up for final hearing.

In all these petitions a grievance is made by the claimants that after the award was passed by the Land Acquisition Officer under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") applications were made by them to refer the matter to a Competent Court under Section 18 of the Act. But they were wrongly rejected by the Land Acquisition Officer on extraneous and irrelevant grounds. A prayer was, therefore, made to direct him to make reference under Sec.18 of the Act to a Competent Court.

Mr.Bhatt, learned counsel for the petitioners submitted that virtually an award passed by the Land Acquisition Officer is in the nature of an offer of an amount of compensation. It is always open to the aggrieved party either to accept the award or to request the Land Acquisition Officer to refer the matter to a competent court in accordance with law.

When such applications were made, it was obligatory on the part of the Land Acquisition Officer to follow the provisions of law by passing an appropriate order making reference to a Competent Court. On grounds which cannot be said to be germane and relevant, the applications were rejected. He, therefore, submitted that all the petitions may be allowed by directing the Land Acquisition Officer to refer the matter to a Competent Court.

Mr.Desai, learned Government Pleader, on the other hand submitted that in the facts and circumstances of the case, there was no other alternative but to reject the application as in some of the cases, there was a dispute regarding ownership of land. In some other matters, more than one applications came to be made. Not only that but when notices were issued by the Land Acquisition Officer, more than one advocate also appeared before him. The Land Acquisition Officer, in these circumstances, could not satisfy as to which application was filed by the claimants and as to who was actually appearing on his behalf. He also submitted that in some of the cases applications were not signed by the claimants who had purported to make applications.

In the facts and circumstances of the case, in our opinion, ends of justice would be met, if we issue the following directions.

All the claimants interested in enhancement of compensation and intending to request the Land Acquisition Officer to refer their cases in accordance

with law, will remain personally present before the Land Acquisition Officer on the date on which the Land Acquisition Officer will direct them to remain present. They will make a prayer in that regard to the Land Acquisition Officer. It is, however, open to claimants to engage an advocate but one claimant will not engage more than one advocate because it would be difficult to the Land Acquisition Officer to decide as to who would be appearing for the claimant. As and when a date will be fixed by the Land Acquisition Officer, and claimants and/or their advocates will appear, the Land Acquisition Officer will pass an appropriate order in accordance with law.

With these observations, all the petitions deserve to be allowed. Rule is partly made absolute to the extent indicated above. In the facts and circumstances of the case, there is no order as to costs.

Liberty to apply in case of difficulty. The Land Acquisition Officer will dispose of the matters as expeditiously as possible.

Dt. 28.1.1997.

(C.K.THAKKER J.)

(R.P.DHOLAKIA J.)